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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/748,977	12/30/2003	Angel Stoyanov	25339	8820
28624 7590 10/31/2007 WEYERHAEUSER COMPANY INTELLECTUAL PROPERTY DEPT., CH 1J27 P.O. BOX 9777 FEDERAL WAY, WA 98063			EXAMINER WHITE, EVERETT NMN	
			ART UNIT 1623	PAPER NUMBER
			NOTIFICATION DATE 10/31/2007	DELIVERY MODE ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patents@weyerhaeuser.com

**Office Action Summary**

Application No.

10/748,977

Applicant(s)

STOYANOV ET AL.

Examiner

Everett White

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 23 July 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-14 and 17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-14 and 17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on August 21, 2007 has been entered.
2. The amendment filed July 23, 2007 has been received, entered and carefully considered. The amendment affects the instant application accordingly:
  - (A) Claims 15 and 16 are canceled;
  - (B) Claim 1 has been amended;
  - (C) Comments regarding Office Action have been provided drawn to:
    - (I) 112, first paragraph rejection, which has been withdrawn;
    - (II) 103(a) rejections, which have been maintained for the reasons of record.
3. Claims 1-14 and 17 are pending in the case.

### ***Claim Rejections - 35 USC § 103***

4. Claims 1-4, 6, 10, 12-14 and 17 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Hansen et al (US Patent No. 5,589,256) for the reasons disclosed on pages 3-5 of the Office Action mailed July 28, 2005.
5. Applicant's arguments filed July 23, 2007 have been fully considered but they are not persuasive. Applicants amended the previous curing temperature range of about 160°C to about 215°C in instant Claim 1 to currently recite a curing temperature range of from about 182°C to about 215°C and argue against the rejection on the ground that the Hansen et al '256 patent, which discloses a curing temperature within a range of about 140°C to about 180°C, teaches away from the currently recited curing temperature range. This argument is not persuasive since there appears to be overlapping curing temperatures since the instant claims recite "about 182°C", which would overlap the curing temperature of "about 180°C" disclosed in the Hansen et al

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'256 patent. Furthermore, limitation of a process with respect to ranges of pH, time and temperature does not impart patentability to a process when such values are those, which would be determined by one skilled in the art in achieving optimum operation of the process. *In re Mostovych et al.* (CCPA 1964) 339 F2d 455, 144 USPQ 38; *In re Aller et al.* (CCPA 1955) 220 F2d 454, 105 USPQ 233.

Applicants also argue against the rejection on the ground that the Whiteness Index of the individualized intrafiber crosslinked cellulosic fibers obtained using the method of the instant claims and recited in the claims is representative of unexpected synergistic results. Applicants refer to data disclosed in the Declaration of Angel Stoyanov submitted on August 21, 2007 to support the unexpected synergistic results of the Whiteness Index recited in instant Claim 1. This argument is not persuasive since the Whiteness Index of 69.0 recited in the instant claims do not indicate unexpected synergistic results according to the Stoyanov Declaration. Applicants may be referring to the Stoyanov Declaration filed August 21, 2006 since a declaration submitted by Angel Stoyanov in August 2007 was not noted. Furthermore, Applicants are reminded that synergism exhibited by a physical mixture of ingredients is a factor to be considered in determining the obviousness of the composition but it is not controlling since synergism may be expected or unexpected. *In re Hullmantel*, (CCPA 1963) 324 F2d 998, 139 USPQ 496; *Ethyl Corp. v. Ladd. Comr. Pats.* (DCDC 1963) 221 F Supp 751, 138 USPQ 663.

Accordingly, the rejection of Claims 1-4, 6, 10, 12-14 and 17 under 35 U.S.C. 103(a) as being unpatentable over the Hansen et al '256 patent is maintained for the reasons of record.

6. Claims 1 and 5-11 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Hansen et al (US Patent No. 5,589,256) as applied to Claims 1-4, 12-14 and 17 above, and further in view of Hansen et al (US Patent No. 5,789,326) for the reasons disclosed on pages 5 and 6 of the Office Action mailed July 28, 2005.

7. Applicant's arguments filed July 23, 2007 have been fully considered but they are not persuasive. In response to applicant's argument that there is no suggestion to

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combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, one of ordinary skill in this art would be motivated to combine the teaching of the Hansen et al '256 patent with the teaching of the Hansen et al '326 patent since both patents suggest preparation of high bulk fibers that involve curing the fibers at temperatures ranging from about 140°C to about 180°C.

Accordingly, the rejection of Claims 1, 5-11 under 35 U.S.C. 103(a) as being unpatentable over Hansen et al '256 patent as applied to Claims 1-4, 12-14 and 17 above, and further in view of Hansen et al '326 patent is maintained for the reasons of record.

### **Summary**

8. All the pending claims are rejected.

### **Examiner's Telephone Number, Fax Number, and Other Information**

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Everett White whose telephone number is 571-272-0660. The examiner can normally be reached on 9:30 to 6:00.

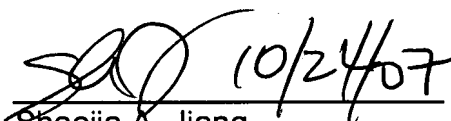
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Shaojia A. Jiang can be reached on 571-272-066127. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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E. White

  
Shaojia A. Jiang  
Supervisory Primary Examiner  
Technology Center 1600